

#### Members

Rep. Trent VanHaaften, Chairperson  
Rep. Scott Pelath  
Rep. Phil GiaQuinta  
Rep. Matt Bell  
Rep. Jack Lutz  
Rep. Jackie Walorski  
Sen. Ron Alting, Vice-Chairperson  
Sen. James Merritt  
Sen. John Waterman  
Sen. Robert Deig  
Sen. James Arnold  
Sen. Greg Taylor



## INTERIM STUDY COMMITTEE ON ALCOHOLIC BEVERAGES ISSUES

*Legislative Services Agency*  
200 West Washington Street, Suite 301  
Indianapolis, Indiana 46204-2789  
Tel: (317) 233-0696 Fax: (317) 232-2554

#### LSA Staff:

Anne Haley, Attorney for the Committee  
Eliza Houston, Attorney for the Committee  
Diana Agidi, Fiscal Analyst for the Committee

Authority: IC 2-5.5-4

### MEETING MINUTES<sup>1</sup>

**Meeting Date:** October 20, 2009  
**Meeting Time:** 1:00 P.M.  
**Meeting Place:** State House, 200 W. Washington St., Room 404  
**Meeting City:** Indianapolis, Indiana  
**Meeting Number:** 3

**Members Present:** Rep. Trent VanHaaften, Chairperson; Rep. Scott Pelath; Rep. Phil GiaQuinta; Rep. Matt Bell; Rep. Jack Lutz; Sen. Ron Alting, Vice-Chairperson; Sen. James Merritt; Sen. John Waterman; Sen. Robert Deig; Sen. James Arnold; Sen. Greg Taylor.

**Members Absent:** Rep. Jackie Walorski.

Rep. VanHaaften called the meeting to order at 1:08 p.m. and discussed the operating procedures of the Committee. Rep. VanHaaften reviewed the charges in the statute establishing the Committee (IC 2-5.5-4) and the additional topics added in 2009 by the Legislative Council. Rep. Van Haaften explained that two issues the Committee would be receiving testimony on today--additional permits for warehouses of beer wholesalers and limitations on purchases at point of sale--were not Committee charges, so the

---

<sup>1</sup> Exhibits and other materials referenced in these minutes can be obtained electronically by requesting copies at [licrequests@iga.in.gov](mailto:licrequests@iga.in.gov). Hard copies can be obtained in the Legislative Information Center in Room 230 of the State House in Indianapolis, Indiana. Requests for hard copies may be mailed to the Legislative Information Center, Legislative Services Agency, West Washington Street, Indianapolis, IN 46204-2789. A fee of \$0.15 per page and mailing costs will be charged for hard copies. These minutes are also available on the Internet at the General Assembly homepage. The URL address of the General Assembly homepage is <http://www.in.gov/legislative/>. No fee is charged for viewing, downloading, or printing minutes from the Internet.

Committee would not consider findings and recommendations on these topics.

### Testimony

#### **(1) Expanding cold beer sales by vendors other than liquor stores**

*Marc Carmichael, Indiana Beverage Alliance*

Mr. Carmichael said that cold beer is a convenience item for consumers. There are already 1,000 outlets in Indiana for cold beer sales, including package liquor stores, restaurants and taverns. Package liquor store permits have sold at a premium due to cold beer sales. Allowing other stores to sell cold beer would decimate the package liquor stores in Indiana.

*Lisa Hutcheson, Indiana Coalition to Reduce Underage Drinking*

Ms. Hutcheson submitted to the Committee a handout of her testimony (Exhibit 1). Ms. Hutcheson made the following points:

- Beer is the most widely consumed alcoholic beverage for underage drinkers and the preferred drink of adult binge drinkers.
- The average age of first use of alcohol in Indiana is 13 years of age. 31% of children in 9th through 12th grades report monthly use of alcohol.
- 35% of retail establishments in Indiana failed Alcohol and Tobacco Commission (ATC) compliance checks.
- Expanding cold beer sales could increase sales to minors in an already compromised retail environment.

*Andrew Sprock, Madison County Program Director, Strategic Prevention Framework State Incentive Grant*

Mr. Sprock submitted his testimony to the Committee in writing (Exhibit 2). Mr. Sprock made the following points:

- Approximately 1 in 3 students drink on a regular basis by the time they are in high school. More than 20% of underage drinkers purchased alcohol directly from a retailer.
- 49% of the compliance checks done by the ATC have resulted in the sale of alcohol to a minor.
- Research by Dr. Ken Winters, University of Minnesota, has shown that the portion of the brain dealing with risk taking develops before the portion of the brain dealing with judgment and second thought. Cold beer is a convenience item for an impulsive purchase.

*Chuck Taylor, Jr., CEO Taylor Oil, Inc.*

Mr. Taylor submitted his testimony in writing to the Committee (Exhibit 3). Mr. Taylor made the following points:

- The issue of cold beer sales is not about expanding the number of sales outlets at for beer, but about the temperature at which beer is sold.
- A two year study by the ATC showed that package liquor stores sold to minors 40% of the time, almost double the rate of noncompliance by drug, grocery, and convenience stores. It is absurd that Indiana law gives the retailer most likely to sell to minors the exclusive right to sell cold beer.

In response to Committee questioning about whether grocery stores would charge a premium for cold beer, Mr. Taylor said that if other stores were able to sell cold beer, they would price it as they saw fit, with competition setting the price.

*Matt Norris, Hoosiers for Beverage Choices*

Mr. Norris said that his organization supports cold beer sales for grocery, drug, and convenience stores because this would provide more options for consumers. Mr. Norris discussed the difference in cold and warm beer prices charged by retailers. He referred to a handout submitted to the Committee (Exhibit 3) showing an average 92 cent difference between a warm case of beer and a cold case of beer. Mr. Norris said that retailers can charge what they want for cold beer based upon the competition in the area.

*Major Mark Bowen, Hamilton County Sheriff's Department*

Major Bowen said that he served for 12 years as an accident investigator for the sheriff's department. Major Bowen said that 17,000 people die each year in alcohol related crashes nationally and that intoxication is the number one crime of those incarcerated in the Hamilton County jail. He said that expanding cold beer sales is more convenient for people, which means that more people will drink and drive. Major Bowen said that public servants must protect those people who can't protect themselves.

*Jim Purucker, Executive Director, Wine and Spirits Wholesalers of Indiana*

Mr. Purucker said that his organization does not support the expansion of cold beer sales. He said that package liquor stores bring consumers a wide choice of products. If cold beer sales were expanded, it would either force out package liquor stores or package liquor stores would be forced to be like grocery stores.

*Nancy Beals, Drug Free Marion County*

Ms. Beals submitted her organization's position statement and a map of Marion County package liquor stores (Exhibit 4). Ms. Beals said that alcohol and substance abuse are costly due to the services needed to deal with the aftermath. Ms. Beals made the following points:

- In 2007, Indiana had 9,942 alcohol-related crashes, resulting in 232 deaths, 532 incapacitating injuries, 3,025 injuries and 6,153 incidents of property damage.
- In 2005, underage drinking in Indiana cost \$1.3 billion in medical care, work loss, property damage, fetal alcohol syndrome, and treatment.
- A study of 434 Marion County middle and high school students showed that 42% perceived that one of the ways that teens obtain alcohol is by stealing it from stores.

- Public policy that can limit access to alcohol will reduce underage use.

*Mary Walker, Marion County Alliance of Neighborhood Associations*

Ms. Walker submitted her testimony to the Committee in writing (Exhibit 5). Ms. Walker said that if other vendors want to sell cold beer, they should have to abide by the same constraints as package liquor stores, including quotas, permit cost, separation of product, age and training of servers, and limitations on the type and number of non-alcoholic products that can be sold.

*John Livengood, President, Indiana Association of Beverage Retailers*

Mr. Livengood provided his testimony to the Committee in writing (Exhibit 6). Mr. Livengood made the following points:

- Alcohol should be sold in an age restricted environment. By expanding cold beer sales it would expand the sale of cold beer to 2,300 additional outlets that are not age-restricted.
- Critics say Indiana's laws are antiquated because other states have deregulated.
- Expansion would destroy package liquor stores and the public policy they were founded on.
- Only package liquor stores support mandatory server training, clerk's licensing, adult clerks, and age-restricted marketing.
- How we treat alcohol sends a message to teenagers.

In response to questioning by the Committee, Mr. Livengood said that Indiana is the only state that allows package liquor stores to compete with big box stores by a combination of laws including quotas and the right to sell cold beer.

*Ray Cox, Elite Beverages*

Mr. Cox made the following points:

- It is a misstatement that package liquor stores overcharge for cold beer, because in reality they are providing a discount for warm beer. Cold beer prices in the surrounding states are comparable to Indiana's.
- Of those states that have "wide-open sales", many don't have a package liquor store industry.
- Package liquor stores offer a wide selection of products, his stores alone offer 1500 SKUs of beer.
- Expansion of cold beer sales would increase the number of outlets that sell cold beer, thereby diluting the volume of cold beer sold by each store.

*Michael Osborne, chaplain*

Mr. Osborne said that he is a chaplain for two police departments, a hospital, and a church. Mr. Osborne discussed his experiences in dealing with parents and families of

teenagers who have died in traffic accidents. He said that package liquor stores, unlike grocery and drug stores, keep track of who is purchasing alcohol.

*Maggie McShane, Indiana Petroleum Council*

Ms. McShane read a letter submitted to the Committee from A.R. Kenney, President of Speedway SuperAmerica, LLC (Exhibit 7). Mr. Kenney said that Indiana is the only state in which they conduct business that forbids the sale of cold beer at grocery stores and convenience stores that are otherwise able to sell warm beer. Mr. Kenney said that his corporation supported programs for compliance checks and that customers familiar with surrounding states say they want one-stop convenience shopping.

**(2) Establishing procedures for allowing direct wine shipments to consumers from Indiana wine sellers and establishing procedures for allowing out of state wine sellers to ship wine, pre-purchased by an Indiana consumer, to an Indiana vendor for delivery to the Indiana consumer.**

*Marc Carmichael, Indiana Beverage Alliance*

Mr. Carmichael discussed how an Indiana liquor store, Cap'n Cork, has argued that liquor stores should be able to deliver alcohol by common carrier, since the law allows farm wineries to use common carriers to deliver wine. He discussed how the law requires wineries to do an initial face to face transaction with the purchaser before shipping the wine, while package stores like Cap 'n Cork are not required to do an initial face to face transaction. Mr. Carmichael said that Cap'n Cork must be doing some sort of third party verification.

*Lisa Hays, Indiana Wine and Vineyard Association*

Ms. Hays urged the Committee to review the face to face requirement and consider a third party verification system as an alternative to the face to face requirement. Ms. Hays submitted her testimony (Exhibit 8) and three handouts to the Committee: a letter from Senator Pete Brungardt, Kansas State Senate (Exhibit 9), an Indiana existing customer verification form (Exhibit 10), and a letter from Elizabeth Berger, Chateau Chantal (Exhibit 11). Ms. Hays stated that Kansas previously had a face to face requirement like Indiana and has replaced it with a third party verification alternative. Ms. Hays said that Indiana wineries in-state shipping business has been destroyed while their out of state shipping is growing.

*Andy Lebamoff, Cap'n Cork*

Mr. Lebamoff submitted to the Committee a handout showing the approximately \$110,000 in sales tax Cap'n Cork collected on wine they delivered (Exhibit 12). Mr. Lebamoff explained that until 6 months ago, Cap'n Cork shipped wine for wine clubs to Indiana residents using a common carrier. He explained that a consumer would go to a winery and order wine, the wine would then be shipped to a wholesaler, delivered to Cap'n Cork, and then shipped via UPS to the consumer. Mr. Lebamoff said that if someone ordered wine over the Internet, there would be no face to face requirement fulfilled, because the wine would go directly from the winery to UPS. Mr. Lebamoff said that even with a face to face requirement, it doesn't ensure that the same person who did the face to face transaction will be the same person who accepts the delivery.

*Lisa Hutcheson, Indiana Coalition to Reduce Underage Drinking, and Indiana Collegiate Action Network*

Ms. Hutcheson said that 8.3% of underage college students drink wine. She said that her organization supports the face to face requirement and requiring purchasers are required to pick the wine up at a package liquor store. She said there should be home delivery guidelines, such as the package should be labeled that it contains alcohol, a signature and ID check should be required, and records need to be maintained as other vendors are required to do with alcohol.

*Jim Purucker, Executive Director, Wine and Spirits Wholesalers of Indiana*

Mr. Purucker discussed *Rowe v. New Hampshire Motor Transport*, a U.S. Supreme Court case regarding shipping of tobacco products, in which the court held that a state can't require a common carrier to check the identification of the person receiving the delivery. He explained how the face to face requirement which was challenged in *Baude v. Heath* was upheld by the 7th Circuit Court of Appeals and was not heard on appeal by the U.S. Supreme Court. Mr. Purucker said that Cap'n Cork is suing the ATC, alleging that retailers should be treated the same as wineries and be able to ship alcohol by common carrier. He explained that in *Granholm v. Heald*, the U.S. Supreme Court held that both in-state and out of state wineries must be treated the same. Mr. Purucker said that if Indiana retailers are allowed to ship to consumers, the next round of cases will be that out of state retailers should be allowed to ship to consumers. Mr. Purucker urged the Committee to exercise caution in going down this path.

*John Livengood, Indiana Association of Beverage Retailers*

Mr. Livengood said that his organization supports the three tier system because wholesalers are important to the distribution system, to package liquor stores, and to restaurants. He said that his organization supports the legislation that was proposed in the past allowing a consumer to pick up out of state shipments of wine at package liquor stores.

*Jason Flora, attorney*

Mr. Flora said that he is an attorney with the firm representing Cap' n Cork in its lawsuit against the ATC, claiming that the law discriminates in favor of farm wineries which are allowed to conduct some sales by common carrier while package liquor stores are not allowed to use common carriers.

### **(3) Allowing gourmet wine shops to provide wine sampling**

*John Livengood, Indiana Beverage Retailers*

Mr. Livengood explained that wine sampling originated in 1984 with the purpose of helping the new wine industry. In the original law, only Indiana wineries could conduct tastings at package liquor stores, but over the years it has been expanded to include wine and liquor retailers and to allow samples of other alcoholic beverages. Mr. Livengood said that there should be safeguards, such as conducting the samplings in an age restricted environment and limiting the amounts of the samples. He said that this is a good example of how a law has been modernized.

*Ashley Lockwood, Cork'n Cracker*

Ms. Lockwood explained that she operates two stores under grocery store permits. Ms. Lockwood made the following points:

- There should be a separate gourmet wine shop license and these gourmet wine shops should be allowed to conduct wine samplings. She does not want all grocery stores to be allowed to do wine sampling.
- Food sampling increases her sales by 25% and as a result the amount of sales tax for the state.
- Other wine shops with grocery store licenses would like to conduct sampling. If were allowed to do samplings, the shops would check identification and follow the same rules that apply to package liquor stores.
- Other states have allowed stores to do wine sampling without an increase in accidents.

*Randy Miller, Drug Free Marion County*

Mr. Miller submitted his organization's position statement to the Committee (Exhibit 13). Mr. Miller said that wine samplings in gourmet shops aren't necessary because there are other stores that provide them. He said that if wine samplings are allowed there should be safeguards such as:

- They should meet all requirements for alcohol sales.
- The shop should be accessible only to those 21 years of age or older.
- Tastings should be limited by amount and length of time.
- Staff should have training and licenses to serve.
- There should be license requirements for shops holding tastings.

*Brad Rider, President and CEO of United Package Liquors*

Mr. Rider said that gourmet grocery stores carry the same products as liquor stores but are not held to the same standards. Gourmet grocery stores have 19 year old untrained sales clerks and no separate display of alcoholic beverages, while package liquor stores hold samplings conducted by trained people who are 21 or older, in an environment where only someone 21 or older can enter. Mr. Rider said that if these gourmet shops are allowed to do tastings, other grocery and convenience stores will ask to do the same thing.

Sen. Alting clarified that the intent behind including this issue on the agenda was to see if they could help these small gourmet wine shop businesses grow and not to expand tastings to the big box or grocery stores.

**(4) Additional permits for additional warehouses of beer wholesalers.**

*Phil Terry, CEO, Monarch Beverage*

Mr. Terry submitted to the Committee a written outline of his proposal (Exhibit 14). Mr. Terry made the following points:

- The law as to beer/wine wholesalers and spirit/wine wholesalers needs to be the

same. This would mean that beer/wine wholesalers would be able to have multiple permits, multiple locations, and sell liquor, the same as spirit/wine wholesalers. In turn, spirit/wine wholesalers would be able to sell beer and have franchise protection the same as beer/wine wholesalers.

- Only two other states prohibit beer wholesalers from also being liquor wholesalers. This separation was created with the belief that the more actors involved in the system the better, and the more separation between tiers the better. This purpose doesn't remain because the number of wholesalers has diminished.
- He said that wine wholesalers can already sell liquor, so beer wholesalers can't compete unless they can sell spirits as well. The intent of this proposed change is not to take business from others, but to protect what they have. The anti-trust laws and the fact that it is not a practical business practice would prevent predatory pricing.

*Jim Purucker, Executive Director, Wine and Spirits Wholesalers of Indiana*

Mr. Purucker said that beer/wine wholesalers like Monarch Beverage would have a huge advantage in competing with spirit/wine wholesalers by using their franchise protected beer territories. Mr. Purucker said that the competition is at the supplier level. There is no competition in the beer wholesaler business because there are contracts in place between the suppliers and the wholesalers.

*Marc Carmichael, Indiana Beverage Alliance*

Mr. Carmichael submitted to the Committee a handout (Exhibit 15). Mr. Carmichael said that while Mr. Terry says that this would not take anything away today, the question remains about tomorrow. If Monarch Beverage has more than one warehouse, it would wipe out the other competition. With the exception of Monarch Beverage, all other beer wholesalers are opposed to the idea. The repercussion would be that there will be more consolidation and fewer wholesalers. The number of beer wholesalers has already been reduced from over 200 in 1968 to 30 today.

**(5) Limitations on the amount of alcoholic beverages that may be purchased at the point of sale for carryout or delivery.**

Rep. Van Haaften explained that this issue was being discussed as a favor to Rep. Noe, and since it was not a part of the Committee charges, the Committee would not consider findings and recommendations on this topic for the final report. Since Rep. Noe could not be present at the meeting, she submitted to the Committee a memo regarding the topic (Exhibit 16).

*John Livengood, Indiana Association of Beverage Retailers*

Mr. Livengood said that quantity limitations are consistent with IC 7.1 and are tailored to each business. The legislature didn't think that grocery stores would be selling mass quantities of alcohol and they don't want grocery stores doing what wholesalers do. He said that package stores are allowed to sell larger quantities because this is one of the things given to them to compensate for the other limitations placed upon them.

*Scott Allen, Coalition to Reduce Underage and Binge Drinking*

Mr. Allen made the following points:



- In 2006, there were 207 DUI arrests of juveniles in Marion County, constituting 6% of total arrests that year.
- 41% of 8th graders admit to consuming alcohol, 50% in Marion County, 46% for the state. By high school age the numbers go up to 70% on average.
- There are 169 liquor stores and 303 retail outlets in Marion County.
- Package liquor stores track large quantity shipments.
- The state could do better with social host liability.

*Jerry Lerch, Drug and Alcohol Consortium of Allen County*

Ms. Lerch submitted a handout of her organization's position statement to the Committee (Exhibit 17). Ms. Lerch made the following comments.

- Half of the population that is 12 years of age and older used alcohol in the past month.
- 20% of the population that is 12 years of age and older have binged on alcohol during the previous 30 day period.
- One-fourth of Indiana high school students rode with someone who was drinking.

## **(6) Consideration of final report findings and recommendations**

Rep. Van Haaften said that the Committee would discuss and vote on the recommendations and findings submitted by Committee members by topic.

Note: Legislative Council Resolution 09-02, SECTION 11 states "a study committee may not recommend a final bill draft, or a final report, unless that draft or report has been approved by a majority of the voting members appointed to serve on that committee." Since the Committee has 12 voting members, it takes an affirmative vote of at least seven members to satisfy this requirement.

### Introductory Finding and Recommendation

**The Committee adopted the following finding and recommendation by a vote of 11 to 0 (show of hands):**

In 1973, the Indiana General Assembly set forth the general purpose of Indiana's alcohol-related laws in I.C. 7.1-1-1-1 as the following:

- (1) To protect the economic welfare, health, peace, and morals of the people of this state.
- (2) To regulate and limit the manufacture, sale, possession, and use of alcohol and alcoholic beverages.
- (3) To regulate the sale, possession, and distribution of tobacco products.
- (4) To provide for the raising of revenue.

Since the formation of these principles in 1973, Indiana's alcohol laws have demonstrated a "consistency of inconsistency" whereby alcohol policy has been driven by the monetary

gains or losses of varying sectors within the three-tier system as opposed to maintenance of a uniform regulatory policy consistent with the general purposes enacted in 1973.

The Committee recommends no issue amending, repealing or otherwise changing Title 7.1 be considered by the Indiana General Assembly for passage into law without deliberation and consideration as to whether such amendment, repeal or change serves the general purposes of I.C. 7.1-1-1-1.

Alcohol server training and employee permits for sales clerks in dealer establishments.

**(1) A motion to adopt the following recommendation failed by a vote of 6 to 5 (show of hands):**

The Committee recommends to the General Assembly that sales clerks in all dealer establishments should be required to complete alcohol server training programs and obtain employee permits.

**(2) The Committee adopted the following recommendation by a vote of 8 to 3 (show of hands):**

The Committee finds the best practice for preventing the sale of alcohol to minors is to require all sales of alcohol for off-premises consumption to be made only after a sales clerk has verified the purchaser's age by means of photo identification.

**(3) A motion to adopt the following recommendation failed by a vote of 0 to 11 (show of hands):**

The Committee recommends to the General Assembly that the law should be amended to include the following concepts:

(1) A permit holder engaging in the business regulated hereunder or any employee thereof shall not make or permit to be made any sales to minors. Prior to making a sale of beer for off-premise consumption, the adult consumer must present to the permit holder, or any employee of the permit holder, a valid, government-issued document, such as a driver's license, or other form of identification deemed acceptable to the permit holder, that includes the photograph and birth date of the adult consumer attempting to make a beer purchase. Persons exempt under state law from the requirement of having a photo identification shall present identification that is acceptable to the permit holder. The permit holder or employee shall make a determination from the information presented whether the purchaser is an adult. In addition to the prohibition of making a sale to a minor, no sale of beer for off-premises consumption shall be made to a person who does not present such a document or other form of identification to the permit holder or any employee of the permit holder; however, it is an exception to any criminal punishment or adverse administrative action, including license suspension or revocation, as provided for a violation of this section if the sale was made to a person who is or reasonably appears to be over fifty (50) years of age and who failed to present an acceptable form of identification. Responsible vendors shall post signs on the vendor's premises informing customers of the vendor's policy against selling beer to underage persons. The signs shall be not less than

eight and one-half inches by eleven inches (8 1/2 x 11), and contain the following language: STATE LAW REQUIRES IDENTIFICATION FOR THE SALE OF BEER. Neither the person engaging in such business nor persons employed by that person shall be a person who has been convicted of any violation of the laws against possession, sale, manufacture and transportation of intoxicating liquor or any crime involving moral turpitude within the last ten (10) years.

(2) A violation of subdivision (a)(1) is a Class A misdemeanor.

Additional one, two, or three-way permits for restaurants in economic development areas.

**(1) A motion to adopt the following recommendation failed by a vote of 3 to 8 (show of hands):**

The Committee recommends to the General Assembly that the law should be amended consistent with the attached draft (Exhibit 18).

**(2) A motion to adopt the following recommendation failed by a vote of 2 to 9 (show of hands):**

The Committee recommends to the General Assembly that the law should not be amended to allow for additional one, two, or three way permits for restaurants in economic development areas.

Displaying alcoholic beverages in separate areas in dealer establishments.

**(1) A motion to adopt the following recommendation failed by a vote of 5 to 6 (show of hands):**

The Committee recommends to the General Assembly that dealer establishments (excluding package liquor stores) should display alcoholic beverages in separate areas.

**(2) A motion to adopt the following recommendation failed by a vote of 0 to 11 (show of hands):**

The Committee finds there should be no limitations for the display of alcohol in any dealer establishment.

**(3) A motion to adopt the following recommendation failed by a vote of 6 to 5 (show of hands):**

The display of alcohol in a dealer establishment should be restricted to an area of the establishment accessible to only persons of legal age to purchase alcohol.

**(4) A motion to adopt the following recommendation failed by a vote of 5 to 6 (show of hands):**

The display of alcohol in a dealer establishment (excluding package liquor stores) should be limited to a designated single area of an establishment without limitation on who can

access the area.

Historic origins of the Indiana alcoholic beverage laws and the 21st Amendment to the Constitution of the United States and its place and purpose in the 21st century.

**(1) A motion to adopt the following recommendation failed by a vote of 0 to 11 (show of hands):**

The Committee recommends to the General Assembly that an independent commission under the direction of the Alcohol and Tobacco Commission should be established not later than December 1, 2012, to recommend revisions and amendments to Title 7.1 and other titles and sections regarding alcohol policy, to make the Indiana Code applicable to and reflective of a 21st Century environment.

**(2) A motion to adopt the following recommendation failed by a vote of 4 to 7 (show of hands):**

The Committee recommends to the General Assembly that the law should be amended to include the following concepts regarding social host liability:

IC 7.1-5-7-8.5 (a) Sec. 8.5. It is a Class B misdemeanor for a person to knowingly or intentionally allow a minor to possess or consume an alcoholic beverage on or within a premise, residence or other real property that the resident owns, leases, rents or that is otherwise controlled by the person. This section also applies to any outdoor property owned, leased, rented or otherwise controlled by the person. However, the offense described in subsection (a) is:

(1) a Class A misdemeanor if the person has a prior unrelated conviction under this section; and

(2) a Class D felony if the consumption, ingestion, or use of the alcoholic beverage is the proximate cause of the serious bodily injury or death of any person.

(c) Nothing in this chapter precludes common law tort claims against any person 21 years or older who knowingly provides or furnishes alcoholic beverages to a person under the age of 21 or allows alcoholic beverages to be consumed in or on their residence, outdoor property, or other property as defined above that is owned, leased, rented or otherwise controlled by the social host.

(d) This section shall not be construed to impose civil liability upon any educational institution of higher learning, including but not limited to public and private universities and colleges, business schools, vocational schools, and schools for continuing education, or its agents for injury to any person or property sustained in consequence of a violation of this section unless such institution or its agent sells, barter, exchanges, provides, or furnishes an alcoholic beverage to a minor.

Sunday sales of microbrewery products for carry out at Indiana microbreweries.

**(1) A motion to adopt the following recommendation failed by a vote of 3 to 8 (show of hands):**

The Committee recommends to the General Assembly that Indiana microbreweries should be allowed to sell the microbreweries' products on Sunday for carry out.

**(2) A motion to adopt the following recommendation failed by a vote of 3 to 8 (show**

**of hands):**

The Committee recommends to the General Assembly that Indiana microbreweries should be allowed to sell the microbreweries' products on Sunday for carry out, not to exceed 200 imp. fl. oz. per customer per day.

Allowing alcoholic beverage carry out sales on Sunday.

**(1) A motion to adopt the following recommendation failed by a vote of 4 to 7 (show of hands):**

The Committee makes the following findings:

- (a) the information and arguments provided to it failed to demonstrate eliminating the prohibition of Sunday alcohol sales would create a uniform regulatory environment for the sale of alcoholic beverages;
- (b) the information and arguments provided to it failed to demonstrate eliminating the prohibition of Sunday alcohol sales would protect the economic welfare, health, peace, and morals of the people of this state; and
- (c) the information and arguments provided to it failed to demonstrate the revenues of the state would be increased by the elimination of the prohibition of Sunday alcohol sales.

Wherefore, the Committee concludes the information and arguments presented for eliminating the prohibition of the sale of alcohol on Sunday was insufficient for the Committee to recommend to the General Assembly the repeal of existing law relative to the sale of alcohol on Sunday.

**(2) The Committee adopted the following recommendation by a vote of 7 to 4 (show of hands):**

The Committee recommends to the General Assembly that carry out sales of alcoholic beverages should not be allowed on Sundays.

Expanding cold beer sales by vendors other than liquor stores.

**The Committee adopted the following recommendation by a vote of 11 to 0 (show of hands):**

The Committee recommends to the General Assembly that only package liquor stores should be allowed to sell cold beer.

Establishing procedures for allowing direct wine shipments to consumers from Indiana wine sellers.

**(1) A motion to adopt the following recommendation failed by a vote of 0 to 11 (show of hands):**

The Committee recommends to the General Assembly that procedures should be established allowing direct wine shipments to consumers from Indiana wine sellers.

**(2) A motion to adopt the following recommendation failed by a vote of 2 to 9 (show of hands):**

The Committee recommends to the General Assembly that procedures should not be established allowing direct wine shipments to consumers from Indiana wine sellers.

Establish procedures for allowing out of state wine sellers to ship wine that was pre-purchased by an Indiana consumer to an Indiana vendor for delivery to the Indiana consumer.

**(1) A motion to adopt the following recommendation failed by a vote of 6 to 5 (show of hands):**

The Committee recommends to the General Assembly that procedures should be established to allow out of state wine sellers to ship wine, pre-purchased by an Indiana consumer, to an Indiana vendor for delivery to the Indiana consumer.

**(2) A motion to adopt the following recommendation failed by a vote of 1 to 10 (show of hands):**

The Committee recommends to the General Assembly that procedures should not be established to allow out of state wine sellers to ship wine, pre-purchased by an Indiana consumer, to an Indiana vendor for delivery to the Indiana consumer.

Evaluating issues surrounding the sale of alcohol on election days.

**(1) The Committee adopted the following finding and recommendation by a vote of 11 to 0 (show of hands):**

The Committee finds Indiana's manner of conducting elections has changed substantially in the recent years. Voters are now able to cast votes during 5 types of elections: 1) General elections; 2) municipal elections; 3) primary elections; 4) school district elections; and 5) special elections. Votes are cast prior to the date of an election by absentee ballots, at satellite voting locations, and in person at government offices.

Furthermore, Indiana's alcohol laws (IC 7.1-5-10-1) do not specifically address a prohibition against the sale of alcohol during school district elections and special elections. This absence has resulted in the ATC being left without statutory direction on the enforcement of alcohol sales during such elections.

Therefore, it is recommended legislative action be taken to provide consistency in the sale of alcohol by eliminating the prohibition of the sale of alcohol on dates or hours an election of any manner is taking place in Indiana.

**(2) The Committee withdrew the following proposed recommendation:**

The Committee recommends to the General Assembly that sales of alcoholic beverages should be allowed on election days.

Implementing uniform closing hours for each day of the week.

**(1) The Committee adopted the following recommendation by a vote of 11 to 0**

**(show of hands):**

The Committee recommends to the General Assembly that all retailers (bars, restaurants) should have a uniform closing hour of 3 a.m. all days of the week.

**(2) The Committee withdrew the following proposed recommendation:**

The Committee recommends to the General Assembly that the hours in which alcoholic beverages can be sold by retailers (bars, restaurants) should be the same all days of the week.

**(3) The Committee withdrew the following proposed finding and recommendation:**

The Committee finds current law regarding the closing hours for on premises consumption of alcohol is inconsistent as to application to retailers and days of the week. In order to create a uniform regulatory environment, the Committee recommends a uniform closing time applicable for all retailers of on premises consumption be enacted. However, the Committee makes no recommendation as to the uniform hour of time and instead leaves such determination to the General Assembly.

**(4) The Committee withdrew the following proposed finding and recommendation:**

The Committee finds current law regarding the closing hours for on premises consumption of alcohol is inconsistent as to application to retailers and days of the week. In order to create a uniform regulatory environment, the Committee recommends a uniform closing time of 2:00 a.m. for all retailers of on premises consumption for each day of the week be enacted.

**Allowing gourmet wine shops to provide wine sampling****(1) The Committee adopted the following by a vote of 8 to 3 (show of hands):**

Indiana law does not currently recognize a "gourmet wine shop." Therefore, the Committee can make no recommendation regarding whether wine sampling should or should not be allowed.

**(2) The Committee withdrew the following proposed recommendation:**

The Committee recommends to the General Assembly that gourmet wine shops should be allowed to provide wine sampling.

**(3) The Committee withdrew the following proposed recommendation:**

The Committee recommends to the General Assembly that gourmet wine shops should not be allowed to provide wine sampling.

**Mandating liquor liability insurance to be carried by bars and taverns.****(1) A motion to adopt the following recommendation failed by a vote of 4 to 7 (show of hands):**

The Committee recommends to the General Assembly that bars and taverns should not be

required to carry liquor liability insurance.

**(2) A motion to adopt the following recommendation failed by a vote of 5 to 6 (show of hands):**

The Committee finds liquor liability insurance protects the economic welfare, health, peace, and morals of the people of Indiana. Although insurance mandates can impose a financial burden on any business, the ability to sell alcohol is a right expressly granted and protected by the state. The award of a permit to sell alcohol demands responsibility not only towards a consumer of alcohol, but also to the public at large. In carrying out this responsibility, the public at large should be confident that an establishment entrusted with the sale of alcohol will be held responsible for their negligence in the service of alcohol. Therefore, the Committee recommends the General Assembly enact legislation requiring liquor liability insurance for all holders of a dealer permit who sell alcohol for on-premise consumption. Any limitations for the amount of insurance should be determined by the General Assembly.

Proposed Committee Findings of Fact and Recommendation

**A motion to adopt the following findings failed by a vote of 2 to 9 (show of hands):**

The Committee made the following findings of fact:

- (1) There are inconsistencies that exist in Indiana law regarding alcoholic beverage sales.
- (2) There is public support for changes to Indiana law that allow for customer convenience while also maintaining appropriate regulations over a controlled substance.
- (3) There are substantial public policy questions involved in discussions of (1) and (2).

**The Committee withdrew the following proposed recommendation:**

The Committee recommends to the General Assembly in light of the Committee's findings of fact that the full membership of the Indiana General Assembly have an opportunity to discuss these issues further.

Adoption of final report

Rep. Van Haaften then asked the Committee to vote on the adoption of the final report. The Committee approved the final report with the inclusion of the actions taken by the Committee and the testimony heard at the meeting of October 20, 2009. The Committee adopted the final report 11-0 by voice vote. With no further business to discuss, the Committee was adjourned at 5:50 p.m..